

Virginia Administrative Code

CHAPTER 110, REGULATIONS GOVERNING THE TRANSPORTATION OF HAZARDOUS MATERIALS

Part I Definitions

9VAC20-110-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Board" means the Virginia Waste Management Board.

"Carrier" means a person engaged in the transportation of passengers or property by:

1. Land or water, as a common, contract, or private carrier; or
2. Civil aircraft.

"CFR" means the Code of Federal Regulations.

"Coordinator" means the Chief Executive Officer of the Virginia Department of Emergency Management.

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Virginia Department of Environmental Quality.

"Hazardous material" means a substance or material in a form or quantity which may pose an unreasonable risk to health, safety or property when transported, and which has been incorporated under Part III (9VAC20-110-110 et seq.).

"Hazardous radioactive materials" mean, for the purposes of these regulations, radioactive materials requiring advance notification as described in 10 CFR 71.97.

"Monitor" means to track the transportation of hazardous radioactive materials requiring advance notification prior to transportation within the Commonwealth by:

1. Requiring shippers to register with the coordinator and to notify the coordinator of shipments of hazardous radioactive materials within the Commonwealth; and

2. In requiring the coordinator to prepare a report annually for the Governor and the director summarizing the hazardous radioactive materials transportation for the preceding year.

"Person" means an individual, firm, copartnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, or government, Indian tribe, or agency or instrumentality of any government or Indian tribe, when it offers hazardous materials, or hazardous radioactive materials for transportation, or transports hazardous materials or hazardous radioactive materials, but such term does not include:

1. The United States Postal Service; or

2. For the purposes of 49 USC §§5123 and 5124, any agency or instrumentality of the federal government.

"Shipper" means a person who transfers possession of hazardous material or hazardous radioactive material to the carrier for transport through the Commonwealth.

"Transport" or "transportation" means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.

Part II

General Information and Legislative Authority

9VAC20-110-20. Authority for regulations.

A. These regulations are issued under authority of Article 7 (§10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Transportation of Hazardous Materials, and Chapter 3.3 (§44-146.30) of Title 44 of the Code of Virginia.

B. Section 10.1-1450 of the Code of Virginia assigns the Virginia Waste Management Board the responsibility for promulgating regulations governing the transportation of hazardous materials. Section 44-146.30 of the Code of Virginia also assigns to the board the responsibility for promulgating regulations by which the coordinator will maintain a register of shippers of hazardous radioactive materials and monitor transportation of hazardous

radioactive materials within the Commonwealth, that may constitute a significant potential danger to the citizens of the Commonwealth in the event of accidental spillage or release.

C. The board is authorized to promulgate rules and regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported, such rules to be no more restrictive than any applicable federal laws or regulations.

9VAC20-110-30. Purpose of regulations.

The purpose of these regulations is to regulate the transportation of hazardous materials and to maintain a register of shippers and monitor the transportation of hazardous radioactive materials requiring advance notification in Virginia.

9VAC20-110-40. Administration of regulations.

A. The director has the responsibility to administer these regulations. When used in these regulations in any such provisions as may be adopted from 49 CFR Parts 107, 171 through 180, and 390 through 397, except in reference to regulations on international transportation, United States means the "Commonwealth of Virginia"; Environmental Protection Agency means the "Virginia Department of Environmental Quality"; and the Secretary of Transportation, regional director, and administrator mean the "director," unless the context clearly indicates otherwise.

B. The department is responsible for the planning, development and implementation of programs to meet the requirements of Article 7 (§10.1-1450 et seq.) of Chapter 14 of Title 10.1 and Chapter 3.3 (§44-146.30) of Title 44 of the Code of Virginia.

C. The coordinator is responsible for registering shippers and monitoring transportation of hazardous radioactive materials in accordance with these regulations.

D. The Radiation Advisory Board, established pursuant to §32.1-233 of the Code of Virginia, shall make recommendations to the director and the board, furnishing such technical advice as may be required, on matters related to development, utilization, and regulations of sources of ionizing radiation.

9VAC20-110-50. Application of regulations.

Notwithstanding the limitations contained in 49 CFR 171.1(a)(3), and

subject to the exceptions set forth in 9VAC20-110-60, these regulations apply to any person who transports hazardous materials or hazardous radioactive materials, or offers such materials for shipment.

9VAC20-110-60. Exceptions.

Nothing contained in these regulations shall apply to regular military or naval forces of the United States, nor to the duly authorized militia of any state or territory thereof, nor to the police or fire departments of this Commonwealth, providing the same are acting within their official capacity and in the performance of their duties.

The shipment or transportation of hazardous radioactive materials by the U.S. Government, for military or national defense, that is specifically exempt from federal regulations is not subject to the requirements of these regulations. Nothing herein shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 (68 Stat 919) or the Energy Reorganization Act of 1974 (42 USCS §5841), as amended.

9VAC20-110-70. Regulations not to preclude exercise of certain regulatory powers.

Pursuant to §10.1-1452 of the Code of Virginia, the provisions of these regulations shall not be construed so as to preclude the exercise of the statutory and regulatory powers of any agency, department or political subdivision of the Commonwealth having statutory authority to regulate hazardous materials on specified highways or portions of them.

9VAC20-110-80. Transportation under United States regulations.

Pursuant to §10.1-1454 of the Code of Virginia, any person transporting or offering for shipment hazardous materials in accordance with regulations promulgated under the laws of the United States, shall be deemed to have complied with the provisions of these regulations, except when such transportation is excluded from regulation under the laws or regulations of the United States.

9VAC20-110-90. Enforcement.

A. The Department of State Police and all other law-enforcement officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous

materials, shall enforce the provisions of Article 7 (§10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, and any rule or regulation promulgated herein. Those law-enforcement officers certified to enforce the provisions of this article, and any regulations promulgated under such article, shall annually receive in-service training in current federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials.

B. Judicial enforcement of these regulations shall be governed by §10.1-1455 of the Code of Virginia.

9VAC20-110-100. Application of Administrative Process Act.

The provisions of the Virginia Administrative Process Act, codified as §2.2-4000 et seq. of the Code of Virginia, govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all administrative proceedings hereunder.

Part III Compliance With Federal Regulations

9VAC20-110-110. Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the United States Secretary of Transportation with amendments promulgated and in effect as of October 1, 2002, (except as otherwise specified below) pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations as set forth below and which are incorporated in these regulations by reference:

1. Exemptions. 49 CFR Part 107, Subpart B.
2. Registration of Persons Who Offer or Transport Hazardous Materials in 49 CFR Part 107, Subpart G.
3. Hazardous Materials Regulations in 49 CFR Parts 171 through 177.
4. Specifications for Packagings in 49 CFR Part 178.
5. Specifications for Tank Cars in 49 CFR Part 179.
6. Continuing Qualifications and Maintenance of Packagings in 49 CFR Part 180.

7. Motor Carrier Safety Regulations in 49 CFR Parts 390 through 397.

9VAC20-110-115. [Repealed]

**Part IV
Hazardous Radioactive Materials Transportation**

9VAC20-110-120. [Repealed] .

9VAC20-110-121. Register of shippers.

Every shipper transporting or proposing to transport hazardous radioactive materials within the Commonwealth shall register with the Department of Emergency Management at least 30 days prior to the initial transportation of such materials. Application for registration or renewal of registration shall be completed on forms furnished by the coordinator and shall contain all the information required by the forms and accompanying instructions. Upon receipt of a complete application form and any other information required by the coordinator, the Department of Emergency Management shall issue a registration certificate. The certificate shall expire two years from the date of issue. Registration information shall be provided by the coordinator to the director upon request.

9VAC20-110-122. Monitoring and transportation.

A. Notification. Prior to each shipment or series of shipments of hazardous radioactive materials within the Commonwealth of Virginia, the registrant shall notify the coordinator in writing as required by 10 CFR 71.97, 10 CFR 73.37 (f) or other applicable federal regulations. The coordinator shall disseminate the notification to local law-enforcement agencies, local emergency management coordinators, local fire departments, or other designated local officials along the transportation route as requested by county or municipal authorities, or as determined by the coordinator to be necessary for effective implementation of these regulations.

B. Reports. At least annually, the coordinator shall submit to the director and the Governor's Office a report summarizing activities carried out under the provisions of these regulations pertaining to the transportation of hazardous radioactive materials.

**Part V
Out of Service**

9VAC20-110-130. Out of service.

The Department of State Police and all other law-enforcement officers of the Commonwealth who have met the qualifications set forth in 9VAC20-110-90 shall be the agents authorized to perform inspections of motor vehicles in operation and to declare and mark vehicles "out of service" as set forth in 49 CFR 396.9.